FOR MYSORE STATE

Revenue (1953) Department.

G.O. NO. 1227

Dated

IV3

ASSISTANT-SECRETARY TO GOVERNMENT
28 MAR 1953
Revenue Estt.

28/3/53 27736 N
28/3/53

Suits -M.G.S.T. ACT 1939 -M/S Rajah Gheee Stores -Bangalore 1944-45 -Assessment to tax -Plaint valuation S.R.No. 64 dated 25-2- Additional City Civil Court - Payment of Fees to Govt. Pleader, Madras -Sanction requested.
Station: Madras. -- Ref. No.D.5357/51-7 d/23-3-53

From:

Sri . Balasundaram, IAS., Secy. Bd. of Rev. CT.
Sri V. . [illegible], ICS., Commr. of Comml. Taxes.

To:

p2 infra

1. From the Govt. Pleader Madras No.2055 d/29-9-51 addressed to the State Counsel Madras.
2. From the State Counsel No.13700/51 d/11-10-51 addressed to C.T.O. North Madras.
3. From the CTO. Guntur No.6/49-3 d/25-11-52
4. From the Govt. Pleader Madras No.10853 d/8-12-52

d.s
p3 infra

REFERENCE:

Submitted to Government.

2. During July 1948 the then Govt. Solicitor Madras requested the Board to depute the Govt Pleader Madras to appear on behalf of the Govt. before the Additional City Civil Judge on 13-7-48 in regard to the question of amount of court fee payable on the plaint filed by the Rajah Ghee Stores, Bangalore who objected to the assessment made for the year 1944-45. The Board accordingly instructed the Govt. Pleader Madras to appear before the Additional City Civil Court Judge, Madras, and to conduct the case. The Additional Judge in his order dated 24-8-48 (copy submitted) held that the valuation of the plaintiff was correct. The then Govt. Pleader, Sri K. Kuttikrishna Menon, has claimed a sum of Rs.30/- towards his fees in the above suit. The Board considers that the amount claimed by the Govt. Pleader Madras is reasonable.

The S.R. in question was disposed on 24-8-48 and the first claim by the Govt. Pleader Madras was made on 29- -51 after a lapse of over three years. The matter was then taken up with the Comml. Tax Officer and Govt. Pleader Madras and the claim has now become more than 4 years old.

In the circumstances explained by the Govt. Pleader, Madras in his letter No.10858 dated 8/9-12-52, the Board considers that the delay in claiming the amount is not due to Govt. Pleader Madras and it accordingly requests that the Govt. may be pleased to condone the delay and sanction a sum of Rs.30/- to the then Govt. Pleader Madras towards his fees in S.R.No.64 dated 25-2-48 on the file of the Additional City Civil Court , Madras.

R Vedam 23/3
for Secy. CT.

To
The Secy. to Govt., Revenue Dept. (with enclosures in original (and with bills) & copies of letters.

Dr.23.3.

m
24/3

Copy of o.2055 d/29-9-51 from Govt. Pleader, Madras.

M.T.S.T.(Guntur) - -M/s Rajah Ghee Stores, Bangalore -1944-45 - Asst. to tax -Plaint valuation -S.R.No.64 d/25-2-43 -Addl. City Civil Court -Govt. Pleader, Madras -Instructed to appear.

Ref: Madras Govt. Solicitor L. o.1946 d/3-7-43 and Bd.'s L.Dis.
T.3024/43 d/12-7-43

As per instructions of the Board in their reference cited, the Govt. Pleader, Madras appeared on behalf of Govt and argued the question of Court Fee payable in the above S.R. before the City Civil Court, Madras and it was disposed of on 24-3-43. Though it was disposed of on 24-3-43, the Govt. Pleader has not been paid his fees so far. I therfore request you to arrange to send the fees without further delay.

Sd. xx
Govt. Pleader.

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Copy of letter TR. RS 13700/51 /11-10-51 from State Counsel

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Sub: ~~asabove.~~ MTST Guntur -M/S Rajah Ghee Stores, Bangalore 1944-45 -Asst. to tax -Plaint valuation -S.R. o.64 d/25-2-43 -Additional City Civil Court - Govt. Pleader, Madras.

We are enclosing herewith a copy of the letter received from the Govt. Pleader, Madras, which is self-explanatory. We request you to send the fee payable fo the Govt. Pleader early as the matter has been kept long without being disposed of.

Sd. xx
State Counsel.

Copy of RSC 6/49 d/25-11-52 from CTO. Guntur.

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Sub: MTST AC 39 -Guntur Dt. -S.R. 64 d/25-2-48 -Additional City Civil Court -Payment of fees to Govt. Pleader, Madras -Remarks called for-Report -Submitted.

Our D.O. 322/52 d/22-11-52 (received on 25-11-52)

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I invite kind attention to this office RSC 6/49-C d/14-5-52 in reply to a D.O. letter in No.130/52 d/[illegible]-5-52 from Board of Revenue C.T. Madras. The Board, in its reference D.5357/51-5 d/6-10-52, however directed the Govt. Pleader, Madras to obtain a regular bill from Sri K. Kuttu Krishna Menon, the then Govt. Pleader, Madras and submit it to the Board. Instead the present Govt. Pleader, Madras sent the bill for Rs.30/- signed by himself. The files available with me do not contain copy of order in S.R. 64 d/25-2-43. The Govt. Pleader, Madras is referred to, to send me a copy of the order in S.R.64 d/25-2-43 to verify the correctness and validity of the claim. He may also be asked to obtain and send a regular bill from Sri K. K.Menon the then Govt. Pleader, Madras. The bill signed by the Present Govt. Pleader is re-submitted

2. The claim is said to have been first made by the Govt. Pleader, Madras as early as September 51. I solicit instructions whether there is any limitation for the claim. A copy of the claim may kindly be supplied for reference and record.

3. As regards the amount of fees (Viz. Rs.30/-) I submit that the Govt. Pleader appears to have claimed the minimum fees with reference to the instructions in item-IX, communicated in B.P.Mis.277/50 d/23-10-50

Copy of No.10358 d/3-12-52 from Govt. Pleader, Madras.

Sub: MGST Act -39 - Guntur Dt. S.R.61/15-2-43 -Addl. City
Civil Court -Payment of fees to Govt Pleader, Madras

Ref: Your MSC 6/49-B d/25-11-52.

Under G.O. 696, Home d/20-2-47, Govt. Pleader
to a minimum fee of Rs.30/- in each interlocutor

The delay in claiming the above fees was dealt
my letter No.4448 d/17-3-52 addressed to you (copy
and there is no question of limitation in claiming
If the above bill is returned to me duly sanctione
the bill in favour of Sri K. Kuttin Krishna Menon
to him.

Copy to the Secy. to the Commr. of Comml. Taxes.
Bd. of Rev. Madras (R.O.C. No.332/52 d/4-12-52)
No claim was preferred by Sri K. Kuttin Krishna Menon
before 29-9-51 either to the Collector or Comml. Tax
Officer, Guntur xnxthe regarding the fees.

Sd. xx xx
Govt. Pleader, Madras.

Copy of letter No.4448 d/13-3-52 from the Govt. Pleader
Madras to the CTO. Guntur.

Sub: MGST ACT 32 -Guntur -S.R.No.64 d/25-2-43 -Addl. City
Civil Court, Madras -Govt. Pleader, Madras Payment of fees -
Information. -

Ref: Your letter 3/49 d/14-5-52 to Board and Board's Ref. D.5357/51
3 d/27-3-52

In cases where the Govt Pleader is instructed by the State Counsel the practice was for the latter to realise and pay the fee due to the Govt. Pleader. Though the case was disposed of on 24-8-43, I was awaiting the receipt of my fee from the State Counsel till 29-9-51. Then I addressed the State Counsel for fees. As there was no proper response from the State Counsel, I addressed the Board for fees in my letter No.2150, d/27-3-52 with a copy to the C.T.O. Guntur with reference to his MSC. 6/49.B. d/30-3-52. In the circumstances, I request that the fee of Rs.30/- claimed may be arranged to be paid to Mr. Kuttikrishna Menon, the then Govt. Pleader.

GOVERNMENT OF MADRAS.	DETAILED BILL OF CONTINGENT CHARGES OF ___	Month of ___193 .
Head of Service.	24–ADMINISTRATION OF JUSTICE–MUFASSAL CRIMINAL COURTS AND LAW OFFICERS.	

Number of Sub-vouchers.	Description of charge and number and date of authority (where special sanction is necessary).	Amount. RS.	A.	P.	Number of Sub-vouchers.	Description of charge and number and date of authority (where special sanction is necessary).	Amount. RS.	A.	P.
						Contingencies—Voted—			
	Honoraria—Voted—					Repair and carriage of Tents ..			
	Fees to Govt. Pleaders in Civil Cases. S.R.No.64 of 1948.	30	0	0		Books and Periodicals			
	Do. in Criminal Cases ..					Rents			
	Do. in Pauper Suits					*Miscellaneous—*			
	Do. in Escheat Cases					Service Postage and Telegram charges.			
	Supplies and Services—Non-voted.					Purchase and Repair of furniture.			
	Charges for copies of Judgments, etc.					Cleaning Charges			
	Supplies and Services—Voted.					Hot and cold weather charges ..			
	Mainly fees to pleaders not in Government service.					Tour charges			
	Stamps in Civil and Criminal Cases.					* Office expenses			
	* Diet and Road Money to Prosecutors and Witnesses.					* Miscellaneous ..			
	* Rewards for apprehension of Offenders.								
	* Fees to Interpreters								
	* Miscellaneous								
	Total, Honoraria and Supplies and Services ..								
	Contingencies—Non-voted.—					Total, Contingencies ..	30	0	0
	Rates and Taxes					† Total of the Bill ..			
	Total ..	30	0	0	(Rupees	thirty only)			

1. I CERTIFY that the expenditure charged in this Bill could not, with due regard to the interests of the public service, be avoided. I certify that, to the best of my knowledge and belief, the payments entered in this bill have been duly made to the parties entitled to receive them with the exception noted below which exceed the balance of the permanent advance and will be paid on receipt of the money drawn on this Bill. Vouchers for all sums above Rs. 25 in amount are attached to the Bill. I have, as far as possible, obtained vouchers for other sums, and am responsible that they have been destroyed or so defaced or mutilated that they cannot be used again.

2. CERTIFIED that the materials and stores billed for above have been brought on the respective inventories and that all materials and stores are being duly accounted for and verified in the manner laid down in Articles 193–200, Madras Financial and Account Code.

3. CERTIFIED further that the purchases billed for have been received in good order that their quantities are correct and quality good, that the rates paid are not in excess of the accepted and the market rates and that suitable notes of payment have been recorded against the original indents and invoices concerned to prevent double payments.

4. Certified that the conveyance hire charged in this bill was unavoidable.

5. Certified that the payments made to prosecutors and witnesses are in accordance with the scales and conditions pr
Rules of Practice and in the Madras Police orders.

Received Contents.

Date, 20/10/1952. Signature P. Satyanarayana

STATION, MADRAS. Designation GOVERNMENT PLEADER.

		RS.	A.	P.
A nly.	Allotment of 193			
	Expenditure including this Bill ..			
	Amount of Work Bills annexed ..			
	Balance available ..			

1. "*Diet and Road Money to Prosecutors and Witnesses.*"—The bill should be supported by a statement showing the number of persons to whom and the rate at which diet and road money was allowed.

2. "*Rewards for apprehension of Offenders.*"—The number of offenders for whose apprehension the rewards were paid and the amount paid in each case should be stated.

3. "*Fees to Interpreters.*"—The number of cases in connection with which the charges were incurred should be given.

4. "*Office expenses*" and "*Miscellaneous.*"—Under these heads full details should be urnished.

Please pay the amount of Rs.30/- to Sri K. Kuttikrishna Menon, he then Government Pleader, Madras.

GOVERNMENT PLEADER.

K Kuttikrishna Menon
23.10.52

Ex. Government Pleader.

In the City Civil Court at Madras.

Present: Sri B.C. Panchanathan Bar-at-Law, Additional Ju
unnumbered plaint filed on 25-2-1948.

Tuesday the 24th day of August 1948.

Presented by

Raja Ghee Stores, Bangalore ...Plaintiff.
Against

The Province of Madras ..... Defendant.

This matter having come on Tuesday the 3rd, Thursday the 12t and finally on Wednesday the 18th days of August 1948 for hearing before me in presence of Mr.P.B. Ananthachari, Advocate for the Plaintiff and the Government Solicitor for the Defendant on the question of the correctness of the valuation of plaint, and it having stood over for consideration ~~of the plaint; and it~~ till this day, the Court made the following Order:

Unnumbered

Plaint.

This is a suit for a declaration that the levy of Sales Tax against the Plaintiffs by the Deputy Commercial Tax Officer and Commercial Tax Officer of Guntur in Appeal No.64/1946-47 dated 15-4-47 and by the Board of Revenue, Madras in B.P. Routine No.11 dated 3-1-1948 is illegal, void and ultravires; for an injunction restraining the--- Defendant or their agents and Officers by a permanent injunction from collecting from the Plaintiffs the said Tax or any portion thereof and for costs.

2. The Plaintiffs are a registered firm of Ghee and Butter--merchants in Bangalore and the Deputy Commercial Tax Officer, Guntur levied Rs.1,63,000/- as sales tax for the year ended 31st March 1944. On appeal the Commercial Tax Officer, Guntur reassessed the Plaintiffs by reducing the sales tax to Rs.93,866-0-6 by his order dated 15-4-1947. On revision preferred by the Plaintiffs on 31-1-1948 the Board of ~~Re~~ Revenue confirmed the reassesment by the Commercial Tax Officer Guntur. The Plaintiffs have valued this suit at Rs.2500/- under Section 7 Clause IV(c) of the Court Fees Act and paid Court fee of Rs.224-15-0 on Rs.2500/-. It is not stated on what basis they have fixed Rs.2500/-, when the benefit tha they would derive by obtaining the relief prayed for in this suit would be to the extent of Rs.93,000/- and odd. It is therefore obvious that the amount of Rs.2500/- has been put--arbitrarily.

3. Section 7 Clause IV(c) relates to suits for a declatory decree where consequential relief is prayed for. Until the matter came up for arguments clause (b) of para 17 of the plaint read as follows: "Restraining the Defendant or their agents and Officers from collecting from the Plaintiffs the said tax-- or any portion thereof pending disposal of the suit". The learned Government Pleader of Madras who appeared for the Province of Madras contended that in fact there is no consequential relief prayed for in this suit and that the suit must be deemed to be one for mere declaration only. As soon as the attention of the learned counsel for the Plaintiff was drawn to the said clause (b) of paragraph 17 of the plaint, he sought permission to amend the same by adding "by issuing a permanent injunction" and striking off "pending disposal of the above suit". So as the plaint now reads it is one to obtain a declaratory order where a consequential relief is prayed for. Mr.D.V.Viswanatha Iyer

in his book on "The Law of Court Fees in British India" 3rd Edition observes that on the question whether in the class of suits mentioned in clause (4) the Plaintiff is entitled to fix any valuation he chooses to adopt or whether the Plaintiff's right to value the relief should be exercised subject to...... the power of the Court to ascertain whether his valuation is proper, there has been a divergence of opinion among the several High Courts in India, notwithstanding the decision of the Privy Council in the Decision in Sundar Bai Vs. The Collector of Belgam (1918) I.L.R. 43 Bombay 376 (P.C.) It is also pointed out that the Madras High Court has uniformly taken the view tat the valuation of relief under clause (4) is for the Plaintiff alone but in some later decisions, the Calcutta High Court -- distinctly leaned in favour of the view that the Court has to determine the true value of the relief claimed where the--Plaintiff's valuation of the same is arbitrary. Having regard to the prevailing view of the Madras High Court in this matter I am of the opinion that the Plaintiffs are entitled to fix their own valuation.

4. The next point to be considered is hwether a declaration alone is not sufficient in this case. It is alleged in--paragraph 12 of the plaint that the Board of Revenue Madras, formerly rejected the Revision Petition by order dated 31-1-19 and directed that further steps should be taken for recovery of the said tax and the Defendant through their Assistant Commercial Tax Officer and Deputy Commercial Tax Officer of Guntur are now trying to recover the Sales Tax claimed as aforesaid from the Plaintiffs. In view of these allegations I consider that it has become necessary for the Plaintiffs to ask for a consequential relief as well.

5. In a case reported in 1928 A.I.R. Calcutta 55 "Secretary of state Vs. Ghunsayam Singh" which was a suit for a declaration that the assessment by the settlement officer was illegal and for an injunction restraining the levy of the assessment, where in respect of a levy of about 18,000/- and odd the valuation fixed at Rs.5,000/- was considered not inadequate. But in view of the Madras decisions giving the liberty to the Plaintiff to fix his own valuation this decision does not seem to apply to the present suit. For the above reasons I hold that the valuation of the Plaintiff is correct. File the plaint.

Pronounced in open Court this the 24th day of August 1948.

True copy.

T. [illegible] 17-2
Head Clerk.
Office of Commercial Tax Officer
Guntur.

From the Bd. of Rev. Ref. no. D.5857/51-7
d/ 23.3.53

G.O. Ms. No: 1227 d/ 27.4.53.

In the circumstances reported by the Bd. of Rev. in its refe. cited the Govt. accep its recommendation and sanction the paym to Sri K. Kuttikrishna Menon, ~~the then~~ former Govt. Ple Madras, of a sum of Rs 30/- (Rupees thirty only) towards his fees in S.R. No 64/48 on the file of the Addl. City Civil Court Madras.

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Note:

Home and Fin. may see before ~~circulation.~~ issue circulation seems to be unnecessary

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8.4.53 9.4.53

Home / Fin
ue Deptt

Finance (Rev

The draft order enclosed

may accepted

DS
21/4/53

R.No. 25685

Inw. apr

Rev. dept

in. no 30207/Rev
22/4/53

35347 W
23/4/53

28 APR 1953
REVENUE DEPARTMENT

28/4